UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,759	12/30/2003	Nathaniel Blake Scholl	026014-002300US	2699

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EXAMINER
RETTA, YEHDEGA

ART UNIT	PAPER NUMBER
3622	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/748,759	SCHOLL ET AL.
	Examiner	Art Unit	
	Yehdega Retta	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>04 May 2010</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4,6-14,16-21,35 and 36* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 2, 4, 6-14, 16-21, 35 and 36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

This office action is in response to amendment filed May 4, 2010. Applicant amended

claims 1, 4, 6, 9, 10-14, 16, 20, 35 and 36. Claims 1, 2, 4, 6-14, 16-21, 35 and 36 are currently

pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

Claims 1, 2, 4, 6-14, 16-21, 35 and 36 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Calabria et al. (US 2005/0137939) in view of Stanbach et al. (US 6449657

B2).

Regarding claims 1 and 2 Calabria teaches one or more computer systems that

collectively implement at least: a plurality of advertisement generators (keyword selection agent

52) that each use at least one algorithm to identify search terms corresponding to an item

(selection of keyword or keyword combinations), determine at least one item-specific visual

element (title or name of the book) (algorithm for selection of advertisement), create a link to

information about the item, and generate an advertisement set (advertisement to be matched with

the keyword or keyword combinations) [0052]-[0055] [0121]), for the item that includes at least

one associated advertisement having the item-specific visual element, the link, and at least one

search term matching the at least one keyword (see [0069]-[0072]); a fee calculator that at least

calculates fee amounts for each of the advertisement sets generated by the advertisement

generators based at least in part on anticipated profitability of the advertisement sets (see [0013],

[0019] – [0023]; an advertisement manager that, at least: receives from the advertisement

generators advertisement sets, receives from the fee calculator a fee amount for each of the

generated advertisement sets, a fee calculator that at least calculates fee amounts for each of the

advertisement sets generated by the advertisement generators based at least in part on anticipated

profitability of the advertisement sets; an advertisement manager that, at least: receives from the

advertisement generators advertisement sets, receives from the fee calculator a fee amount for

each of the generated advertisement sets (see abstract, [0035]-[0040], [0044]- [0047], [0055]-

[0059], [0109]). Calabria does teaches advertisement manager selects one of the generated

advertisement sets for submission to the advertisement placement service and an advertisement

submitter receives from the advertisement manger the selected advertisement set and fee amount

for the selected advertisement set and sends to the advertisement placement service a request to

place the selected advertisement set along with content associated with the keyword at the fee

amount of the selected advertisement set (see [0104]-[0109], [0119]-[0122]). Calabria does not

explicitly teach determines whether at least one of the generated advertisement sets would avoid

conflict with the submitted advertisement set with respect to the at least one search term of the

submitted advertisement set and, when at least one of the generated advertisement sets is

determined to avoid conflict, selects one of the generated advertisement sets determined to avoid

conflict, it is taught in Ford. Ford teaches in the event that a given keyword maps to multiple

advertisements database manager may pick randomly among the candidate advertisement or

alternatively the user may impose special condition such as requiring a round robin scheduling, so as to avoid repetitions of specific advertisement (conflict) (see col. 11 line 58 to col. 12 line 15). Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to select the advertisement of Calabria in a round robin scheduling as in Ford in order to avoid repetition of the specific advertisements, as taught in Ford.

Regarding claims 4, 7, 8, Calabria teaches the advertisement manager selects one of the generated advertisement sets based at least in part on determined likelihood of users selecting the advertisement when it is placed along with a content associated with the keyword; a database containing statistics relating to placements of advertisements and wherein the fee calculator determines anticipated profitability based on analysis of the statistics; wherein the statistics include average cost-per-click of an advertisement and average revenue-per-click (see [0120]-[0123],[0133]- [0147]).

Regarding claim 6, Calabria teaches multiple advertisement submitters where each advertisement submitter is associated with a respective different advertisement placement service (see [0153]).

Regarding claims 9, 19, Calabria teaches under the control of one or more computer systems configured with executable instructions using each of a plurality of algorithms to at least: identify search terms corresponding to an item (selection of keyword or keyword combinations), determine at least one item-specific visual element (title or name of the book) (algorithm for selection of advertisement), create a link to information about the item, and generate an advertisement set (advertisement to be matched with the keyword or keyword

combinations) [0052]-[0055] [0121]) for the item that includes at least one associated

advertisement having the item-specific visual element, the link, and at least one search term

matching the at least one keyword (see [0069]-[0072]); submitting one or more of the generated

advertisement sets to an advertisement placement service with a bid amount (see [0104]-[0109],

[0119]-[0122]). Calabria does not teaches determines whether at least one of the generated

advertisement sets would avoid conflict with the submitted advertisement set with respect to the

at least one search term of the submitted advertisement set and, when at least one of the

generated advertisement sets is determined to avoid conflict, selects one of the generated

advertisement sets determined to avoid conflict, it is taught in Ford. Ford teaches in the event

that a given keyword maps to multiple advertisements database manager may pick randomly

among the candidate advertisement or alternatively the user may impose special condition such

as requiring a round robin scheduling, so as to avoid repetitions of specific advertisement

(conflict) (see col. 11 line 58 to col. 12 line 15). Thus it would have been obvious to one of

ordinary skill in the art at the time of the invention to select the advertisement of Calabria in a

round robin scheduling, as in Ford, in order to avoid repetition of the specific advertisements.

Regarding claims 10-14 and 16-18, Calabria teaches analyzing based at least in part on

profit resulting from user selection of submitted one or more advertisement sets, the

effectiveness of one or more submitted advertisement sets and wherein said selecting is based on

least in part on said analyzing; calculating the bid amount based at least in part on advertising

metrics collected by the advertiser; placing the advertisements associated with the submitted one

or more advertisement sets with content associated with a keyword that matches the one or more

identified search terms of the submitted one or more advertisement sets (see [0035]-[0040],

[0044]- [0047], [0052]-[0060], [0109], [0121]).

Regarding claims 20 and 21, Calabria teaches filtering generated advertisement sets

based on frequency of keywords in content or desirability of keywords (see [0054]-[0059]).

Regarding claims 35 and 36, Calabria teaches a computer program product embedded in

a computer-readable medium comprising a program code for using a plurality of different

algorithms (keyword selection agent 52) to identify search terms corresponding to an item

(selection of keyword or keyword combinations), determine at least one item-specific visual

element (title or name of the book), create a link to information about the item; program code to

generate an advertisement set (advertisement to be matched with the keyword or keyword

combinations) [0052]-[0055] [0121]), for the item that includes at least one associated

advertisement having the item-specific visual element, the link, and at least one search term of

the identified search term (see [0069]-[0072]); program code for associating each generated

advertisement set with a corresponding bid amount (see abstract, [0035]-[0040], [0044]- [0047],

[0055]-[0059], [0109]). Calabria teaches program code for selecting one of the generated

advertisement sets and submitting the selected one or more unsubmitted generated advertisement

(generated advertisement) (see [0104]-[0109], [0119]-[0122]). Calabria does not explicitly teach

determining whether at least one of the generated advertisement sets would avoid conflict with

the submitted advertisement set with respect to the at least one search term of the submitted

advertisement set and, when at least one of the generated advertisement sets is determined to

avoid conflict and selecting one of the generated advertisement sets in a round-robin manner, it is

taught in Ford. Ford teaches in the event that a given keyword maps to multiple advertisements

database manager may pick randomly among the candidate advertisement or alternatively the

user may impose special condition such as requiring a round robin scheduling, so as to avoid

repetitions of specific advertisement (conflict) (see col. 11 line 58 to col. 12 line 15). Thus it

would have been obvious to one of ordinary skill in the art at the time of the invention to select

the advertisement of Calabria in a round robin scheduling, as in Ford, in order to avoid repetition

of the specific advertisements, as taught in Ford.

Response to Arguments

Applicant's arguments with respect to claims 1, 2, 4, 6-14, 16-21, 35 and 36 have been

considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YR

/Yehdega Retta/
Primary Examiner, Art Unit 3622